



# AGENDA

**NOTE: In the case of non-members, this agenda is for information only**

- Committee** - **STANDARDS COMMITTEE**
- Date & Time** - Tuesday, 15th February, 2011 at 2.15 pm
- Venue** - Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham

**Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.**

#### Committee Members

Mr. M. Eveling JP ( <i>Independent</i> )	Mr. B. Rayner ( <i>Parish</i> )
Mrs. J. Jenkins ( <i>Independent</i> )( <i>Chairman</i> )	Mr. G. Ridgway ( <i>Independent</i> )
Mrs. M. Oechsle JP ( <i>Parish</i> )	Mr. F. Sharpe ( <i>Breckland</i> )
Mrs. S.M. Matthews ( <i>Breckland</i> )	Mr. M. Whittley ( <i>Parish</i> )
	Mr. D. Williams JP ( <i>Breckland</i> )

**Persons attending the meeting are requested to turn off mobile telephones**

Member Services  
Elizabeth House, Walpole Loke,  
Dereham Norfolk, NR19 1EE

Date: Friday, 4 February 2011

**PART A**  
**ITEMS OPEN TO THE PUBLIC**

	<u>Page(s)</u> <u>herewith</u>
<p>1. <b><u>MINUTES</u></b> To confirm the minutes of the meeting held on 4 January 2011.</p>	1 - 3
<p>2. <b><u>APOLOGIES</u></b> To receive apologies for absence.</p>	
<p>3. <b><u>URGENT BUSINESS</u></b> To note whether the Chairman proposes to accept any item as urgent business pursuant to Section 100(B)(4)(b) of the Local Government Act 1972.</p>	
<p>4. <b><u>DECLARATION OF INTEREST</u></b> Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Members' Code of Conduct requires that declarations include the nature of the interest and whether it is a personal or prejudicial interest.</p>	
<p>5. <b><u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u></b> To note the names of any non-members wishing to address the meeting.</p>	
<p>6. <b><u>WHISTLEBLOWING POLICY</u></b> Report of the Head of Internal Audit.</p>	4 - 34
<p>7. <b><u>DISPENSATIONS GRANTED TO SCARNING PARISH COUNCIL (FOR INFORMATION)</u></b> At Standards Committee on 4<sup>th</sup> September, 2009 the Committee resolved at Minute 31/09(3): as a general rule in future, when a dispensation was granted to all members of a Town or Parish Council with a vacancy, delegated authority be given to the Monitoring Officer to grant a dispensation for the same purpose to the new member when elected.  At a meeting on 4<sup>th</sup> August, 2009 Breckland Council's Standards Committee agreed to grant a dispensation to the parish councillors of Scarning in respect of the Former Highway Surveyors Land at Daffy Green and the Scarning Fuel Allotment Charity.  Following the resignation of two of the councillors, Mr. Anthony Horwell and Mr. Reginald Walton were co-opted to fill the vacancy.  Two letters have been received from the Clerk to Scarning Parish Council, copies attached, requesting dispensations for Mr. Anthony Horwell and Mr. Reginald Walton in respect of the Former Highway Surveyors Land at Daffy Green and the Scarning Fuel Allotment Charity.  In line with the resolution made on the 4<sup>th</sup> September, 2009 by the Standards</p>	35 - 36

Committee, on the 1<sup>st</sup> December, 2010 and the 17<sup>th</sup> January, 2011 the Monitoring Officer granted dispensations to the two parish councillors of Scarning Parish Council, namely Mr. Horwell and Mr. Walton.

**8. COUNCIL RESOLUTION - FOR INFORMATION**

In response to a recommendation from the Standards Committee, at the meeting of the Council held on 27 January 2011, the following resolution was passed:

**RESOLVED** that, as from May 2011, the Standards Committee membership be reduced to eight: two Independent Members, three Parish Councillors and three District Councillors.

**9. LOCALISM BILL**

The Standards Consultant will update the Committee on any developments or further information received.

**10. ITEMS FOR FUTURE AGENDAS (STANDING ITEM)**

To note items for inclusion on future agendas.

**11. NEXT MEETING**

To note the date of the next meeting on 29 March 2011.

**BRECKLAND COUNCIL**

**At a Meeting of the**

**STANDARDS COMMITTEE**

**Held on Tuesday, 4 January 2011 at 2.15 pm in  
Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

**PRESENT**

Mr M.D. Eveling JP

Mrs J. Jenkins (Chairman)

Mrs S.M. Matthews

Mrs M. Oechsle JP

Mr B.D Rayner

Mr G. Ridgway

Mr F.J. Sharpe

Mr M. Whittley

Mr D.R. Williams JP

**Also Present**

Mr J.P. Labouchere

**In Attendance**

Susan Allen

John Chinnery

Helen McAleer

Jane Osborne

- Standards Officer
- Solicitor & Standards Consultant
- Senior Committee Officer
- Committee Officer

**Action By**

**1/11 MINUTES**

It was noted that the date at the end of the second paragraph of page two of the Minutes should be 2010, not 2011. Subject to that amendment the Minutes of the meeting held on 19 October 2010 were confirmed as a correct record and signed by the Chairman.

**2/11 APOLOGIES**

None.

**3/11 URGENT BUSINESS**

None.

**4/11 DECLARATION OF INTEREST**

None

**5/11 NON-MEMBERS WISHING TO ADDRESS THE MEETING**

Mr Labouchere was in attendance for Agenda Item 6.

**6/11 ABOLITION OF THE STANDARDS REGIME**

The Solicitor advised that the Localism Bill had been published on 13 December 2010. The Government would be revoking the general principles relating to the Code of Conduct and abolishing the Standards for England Board. The First Tier Tribunal would lose its jurisdiction. However, the present regime would continue in its normal manner for at

**Action By**

least the next twelve months and there would be a further transitional period whilst any complaints under consideration were dealt with. During transition and after, censure and/or the offer of training would be the only sanctions available for those complaints, as the power to suspend or disqualify a Councillor would be removed.

Under the new regime, which was likely to come into force in the spring of 2012, Councillors would still be required to register and declare their interests. Failure to do so would become a criminal offence.

Local Authorities and Parish Councils would be able to adopt a voluntary Code of Conduct if they so chose.

There were still a lot of unanswered questions and more details were awaited from the Government, particularly in relation to the definition of the new criminal offence. There was concern that complaints to the police would be difficult to action and that if no regime was in place new Councillors might act inappropriately and degrade the whole system.

Bullying and intimidation would not be covered by the criminal sanctions and Officers, Clerks and members of the public might receive less protection from any voluntary codes that were adopted.

If Parish Councils chose to adopt a voluntary Code they would need to specify someone who would act as a 'Monitoring Officer'.

Members discussed the implications of the removal of the current regime and Code of Conduct model. They felt unable to plan for the future without receiving a steer from the Council on its future intentions.

The Bill would abolish the requirement to have Independent Members although Councils could still choose to appoint them. Members felt it was extremely important for Independent Members to be retained to maintain public confidence.

It was noted that the Chairman's term of office expired in May and she stated that she would not be standing for re-election. The Standards Officer had prepared a timetable for the recruitment of a new Independent representative. However, Members felt that in the current uncertain times it would not be cost-effective to recruit anyone.

It was suggested that the Standards Committee could continue with only eight Members and it was

**RESOLVED** to **Recommend to Council** that, as from May 2011, the Standards Committee membership be reduced to eight: two Independent Members, three Parish Councillors and three District Councillors.

The Chairman suggested that the Leader of the Council should be asked to make the Council's intentions clear for the sake of new Councillors elected in May. However, the Solicitor thought that the Committee should point out that the existing regime would continue for at least the next twelve months. He asked Members if they considered that more training was needed.

	<b><u>Action By</u></b>
<p>Members agreed that induction training for new Members was imperative but did not feel that any other training should be considered until the way forward was clearer.</p> <p>Mr Labouchere said that he had found the debate very interesting. He felt that he had been the subject of some vexatious accusations which had made his life very difficult. He hoped that the procedures would be addressed in the future to prevent such complaints from inhibiting a Councillor's ability to do his/her job.</p> <p>He suggested that candidates for membership should be made aware of the requirements of the Code of Conduct in advance of being elected and that the parameters of irresponsible behaviour needed to be made clear to the electorate and the Members.</p> <p>The Solicitor agreed to check that information on the Code of Conduct was included in the prospective Councillor's application pack.</p> <p>A Member also suggested that prospective Councillors should be made aware of the new criminal offence regarding declarations as he felt that it was something that could potentially affect their livelihoods if they had to face criminal proceedings. He suggested that this should be included in the newsletter sent to Town and Parish Councils.</p>	
<p><b>7/11 <u>CITIZEN'S PANEL</u></b></p> <p>The Solicitor advised that the report was for information and that the major tables were on pages 19 and 21.</p> <p>Members were surprised at the percentage of people who had heard of the Standards Committee and knew what it did. They suggested that it should be pointed out to the Council that the Standards regime had good support.</p> <p>The Solicitor agreed to check that the Panel's report went to Cabinet.</p>	John Chinnery
<p><b>8/11 <u>ITEMS FOR FUTURE AGENDAS (STANDING ITEM)</u></b></p> <p>A Member asked if the disclaimer concerning pre-determination by Planning Officers had been added to the website. The Solicitor agreed to check that it had.</p> <p>No items were proposed.</p>	John Chinnery
<p><b>9/11 <u>NEXT MEETING</u></b></p> <p>The arrangements for the next meeting were noted.</p>	

The meeting closed at 3.20 pm

CHAIRMAN

**BRECKLAND COUNCIL**

**Report of the Head of Internal Audit to the  
JOINT CONSULTATIVE COMMITTEE – 3 February 2011  
STANDARDS COMMITTEE – 15 February 2011  
GENERAL PURPOSES COMMITTEE – 16 February 2011  
AUDIT COMMITTEE – 25 March 2011**

**Whistleblowing Policy****1 Purpose of Report**

- 1.1 The Whistleblowing Policy was last reviewed and approved by the Council in 2008. It has subsequently proved timely to revisit the arrangements in place, in conjunction with a review of the Counter Fraud Strategy and the formulation of a new Anti Money Laundering Policy to ensure that existing and new Policies/Strategies are fully aligned and appropriately support the ongoing development of the Council's anti fraud and corruption culture.
- 1.2 To aid the Committee's review of the attached policy, we have provided the Institute of Chartered Accountants' guidance to private sector Audit Committees on whistleblowing arrangements by way of a background paper. At **Appendix 1** to the report, we have also included additional information designed to give further clarity and guidance in a public sector context.
- 1.3 It has been determined that this policy should be reviewed by the Joint Consultative Committee, the Standards Committee and the General Purposes Committee prior to its submission to the Audit Committee for its approval. This is a similar route to the protocol followed when the previous Whistleblowing Policy was taken forward, albeit that since then, the Audit Committee has been formed, and charged with oversight of the Council's arrangements for Fraud and Corruption, of which this policy forms a core element.

**2 Recommendations**

- It is recommended that the Joint Consultative Committee, Standards Committee and General Purposes Committee:
- 2.1 Review the Content of the Whistleblowing Policy, putting forward any enhancements where appropriate, ahead of presentation of this policy to the Audit Committee for formal approval.

**Note:** In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

**3 Information, Issues and Options**

- 3.1 Background
- 3.1.1 Following the Public Interest Disclosure Act, 1998 (PIDA), organisations were required to put in place appropriate arrangements to ensure that those who had concerns about matters that were in the public interest had safe avenues with which to raise these concerns. Although it is not compulsory, most organisations have elected to fulfil these obligations through introducing a Whistleblowing Policy.
- 3.1.2 Breckland Council has had a Whistleblowing Policy for a number of years; this policy was last rewritten in 2007/08 and approved by Full Council in 2008. The policy sets out that the Council is keen to encourage staff, councillors, partner bodies and members of the public to raise concerns that they have, in the knowledge that the Council will aim to ensure they face no reprisal or victimisation as a result of taking such action.
- 3.1.3 Subsequent to the last review of the Whistleblowing Policy, there have been a

number of developments in this area which have fed into the current Policy review. In particular, the British Standards Institute issued a “Whistleblowing Arrangements Code of Practice” in late 2008, which sets out practical guidance for organisations on how to manage whistleblowing arrangements in practice. In addition, the Deputy Audit Manager attended a workshop run by Public Concern at Work (a charity providing free and impartial advice on whistleblowing to those who have concerns), which provided some focus on a “model” whistleblowing policy and gave the opportunity to scrutinise Breckland Council’s existing arrangements in relation to whistleblowing. We have also made changes to the policy following research of other Councils’ arrangements, and in light of experience of other Councils in using their policies and processing whistleblowing concerns raised.

3.1.4 Historically, the Council has had few whistleblowing cases reported under the Whistleblowing Policy. However, the consequences of the failure to act should issues be reported can be very significant; the Council has a duty both to respond to matters that are in the public interest and to protect its employees.

3.1.5 To support the Committee in the review of the revised policy, we have provided a background paper produced by the Institute of Chartered Accountants on the Role of the Audit Committee in Whistleblowing Arrangements. As this is tailored to the private sector, we also provided further guidance and a public sector context in **Appendix 1**. Although it is recognised that the papers are orientated towards Audit Committees, this information is also included here as it serves as useful background and context to assist all relevant committees with their own review of the policy.

### 3.2 Issues

3.2.1 The revised policy is attached at **Appendix 2**. The policy overall has remained fairly similar in terms of scope, coverage and layout. However, the changes that have been made have been subject to careful consideration, and as such the supporting rationales for the significant changes are outlined below; these changes support the proposal raised to approve the policy.

- Previously, the policy highlighted 4 areas where concerns could be raised that were outside of the scope of the legal framework (i.e. abuse of position, unauthorised use of Council money, failing to meet professional standards and deliberately not keeping to a Council policy). The policy now only formally identifies those cases that are set out in the Public Interest Disclosure Act, but does include a paragraph which encourages people to raise any concerns they may have as soon as they are reasonably aware. Other aspects previously identified generally either fall within the scope of a different Council policy, or because they are outside of the scope of the PIDA legislation we are not bound to respond or react in the same manner.
- There is greater clarity on what is not covered by the policy, and in particular we identify that bullying and harassment is dealt with by the Harassment and Bullying Prevention Policy.
- The wording with regards malicious complainants has been altered, partly in regard to the fact that this is one of the most difficult elements of the law to interpret in practice. Previously, the policy included a paragraph that where an employee acts in a malicious way, the protection outlined above will not apply and the employee may be subject to disciplinary action. However, subsequent guidance by the British Standards Institute indicates that although an employee may be acting maliciously, it is not necessarily an untrue allegation, and as such a policy should restrict the scope of action to where a concern is found to be false and raised in bad faith. Further, in the examples previously cited in the policy, someone may leak information to the press because they feel the Council would not act appropriately to the incident – not out of maliciousness. As a result, paragraph 5.1 now defers to the wording used by Public Concern at Work in their model policy that we do not extend assurances to those who maliciously raise a matter they know is untrue, which is again consistent with paragraph 8.2 with regards “untrue allegations”.
- The assurances we provide to third parties has been clarified. We would want contractors and other stakeholders to raise issues they experience; however, we

cannot provide assurances that they would not be victimised by third parties as a result.

- We have now created clear and separate guidance to members of the public, contractors and councillors and partner organisations who have a concern.
- One of the major changes has been the removal of the section on how the Council will respond. This is being replaced with a formal procedure which will outline the Council's response in more detail than was previously feasible within the policy. Staff and members will be able to access the procedure via the intranet upon formal approval of the updated policy.
- The information on raising issues with third parties has been expanded to give more guidance to those who choose to undertake this route, and places more emphasis on using the internal avenues in the first instance.
- The responsibility of the policy has been changed in light of the recent corporate restructures and following research of other Council policies and best practice guidance; as such, the Deputy Chief Executive, as the Council's Monitoring Officer, has been identified as the Council's Whistleblowing Officer.
- A annual and triennial review structure for the policy has been formally established; this revisiting of the policy is in line with both the previous, and current routes utilised for policy development and approval.
- Finally, the contact details for all internal and external parties has been separately produced as an Appendix to the policy. This enables a more ready review and update of such details to ensure they remain current. Due to the ongoing changes in the Council's management structure at the time of presentation of this policy to this Committee, final details confirming all responsible officers will be updated when the policy is formally adopted.

### 3.3 Options

3.3.1 None presented, although the Committee may wish to suggest any changes ahead of Council adoption.

### 3.4 Reasons for Recommendation(s)

3.4.1 It is important to ensure that appropriate arrangements are in place to encourage those who have concerns to raise them in a confidential and safe manner. This policy fulfils that requirements, and ensures the Council is complying with good practice in line with the Public Interest Disclosure Act.

## 4. Risk and Financial Implications

### 4.1 Risk

4.1.1 There are significant risks posed to the Council if people cannot safely raise concerns, and if the Council fails to respond to those concerns in an appropriate manner.

### 4.2 Financial

4.2.1 None

## 5. Legal Implications

5.1 The Public Interest Disclosure Act 1998 does not require authorities to have a whistleblowing policy, however in doing so the Council is ensuring that it is discharging its duties under the legal framework.

## 6. Other Implications

a) Equalities: The Council's whistleblowing policy ensures that it does not victimise

or discriminate against any employee who raises a public interest concern within the organisation.

- b) Section 17, Crime & Disorder Act 1998: Having a whistleblowing policy encourages people to raise concerns that may be of a criminal nature. As such, by approving the policy, the Committee is supporting the Council in complying with the provisions of the Act in preventing crime in its area.
- c) Section 40, Natural Environment & Rural Communities Act 2006: Although the policy does not directly impact upon diversity, the Public Interest Disclosure Act 1998 includes a provision for people to raise protected disclosures in respect of unnecessary damage to the environment.
- d) Human Resources: Raising concerns can have several HR implications, including disciplinary procedures being required against wrongdoers, and providing support networks for those raising concerns.
- e) Human Rights: The Human Rights Act 1998 is inevitably considered whenever an investigation is undertaken into a whistleblowing concern, and in respect of the person raising the concern.
- f) Other: None.

## **7. Alignment to Council Priorities**

- 7.1 Encouraging people to raise concerns of potential wrongdoing in a safe manner helps to support the Council create a culture that supports the achievement of corporate aims and objectives.

## **8. Ward/Community Affected**

- 8.1 All

### Background Papers

*ICAEW: Guidance for Audit Committee members – Whistleblowing Arrangements*

### Lead Contact Officer:

*Name/Post: Sandra King, Head of Internal Audit*

*Telephone: 01508 533863*

*Email: scking@s-norfolk.gov.uk*

### Key Decision Status (Executive Decisions only):

*Non-Key Decision*

### Appendices attached to this report:

*Appendix 1: Guidance for the Committee on reviewing whistleblowing arrangements*

*Appendix 2: Whistleblowing Policy*

## Guidance to the Audit Committee on Whistleblowing

### Introduction

1. In 2004, the Institute of Chartered Accountants (ICAEW) produced a paper titled “Guidance to Audit Committees: Whistleblowing Arrangements”. This paper is very much orientated towards Committees of commercial organisations and provides helpful background and guidance that public sector committees may equally find useful. We have therefore included the ICAEW paper as a background paper to this Committee report.
2. The CIPFA / SOLACE framework for governance in local government refers to the need for authorities to have suitable whistleblowing arrangements in place. “Arrangements” goes beyond having a policy; it entails the Council having suitable practices for the reporting of concerns and to investigate matters raised, as well as ensuring that those charged with Governance have a suitable awareness of the Council’s provisions for whistleblowing.
3. The Combined Code of Corporate Governance (used to guide private sector governance arrangements) succinctly outlines what the Audit Committee should contribute to the whistleblowing process:

*“The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee’s objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action”*

### Background to Whistleblowing

4. The legislative framework for Whistleblowing in England is the Public Interest Disclosure Act (1998). In effect, this is an extension of the Employment Rights Act. The purpose behind the act is to provide protection to those employees who raise concern, and ensures that they are not unfairly treated as a result of raising their concern.
5. This places a duty on the Council to ensure appropriate procedures are in place to allow people to raise concerns and appropriately handle these concerns. The Council therefore has to consider who should receive concerns raised, how it can maintain the confidentiality of a whistleblower, and how investigations can be effectively managed.
6. Whistleblowing can be a very traumatic process for all involved. In general, the raising of such concerns is only done by those who have a

genuine belief that there is untoward behaviour occurring – something that can be very difficult to do, particularly where it involves workplace colleagues or friends, or line management. There can also be the case where a malicious allegation has been raised, which can then place the accused under scrutiny and stress.

### **The Council's response**

7. The duty to protect whistleblowers extends to the whole Council, including Members who may receive concerns raised by staff or members of public and need to ensure they know how to proceed with these. Further, inappropriately reacting to whistleblowing concerns raised can lead to significant risks to the Council, for example:
  - Nothing is done about the concern – the Council could be exposed to fraud or inappropriate / untoward / corrupt behaviour etc
  - The whistleblower raises their concern with an outside party (e.g. Inspectorate or media) – this could lead to damage to the Council's reputation, fines being awarded etc
  - The whistleblower seeks damages as a result of unfair treatment / failure to investigate – the Public Interest Disclosure Act places no restriction on the level of damages that can be awarded to employees unfairly treating employees who raise concerns. An employee at Redcar and Cleveland Council was recently awarded £442,466 as a result of being sacked for expressing a concern that an internal appointment had not been properly advertised. Walsall Council have also paid a sum to a former employee of nearly £600,000.
8. The ICAEW believes that whistleblowing is an important part of the control environment, and can only be effective where two cultural obstacles can be overcome – where employees see the policy as a valuable contribution to the efficiency and success of the Council, as well as their own future; and secondly, where they believe their concerns will be fairly treated.
9. The Council has sought to overcome these obstacles in a number of ways. Staff are provided guidance in their induction on what to do if they have a concern; the Council has a long-established whistleblowing policy; ongoing training is provided to staff on corporate fraud and whistleblowing, and the Council is a subscriber to Public Concern at Work, who provide free and impartial advice to those who have concerns.

### **The Audit Committee's role**

10. Fundamentally, the Audit Committee should seek to gain assurance that proper arrangements are in place. The main function is high-level, however if you believe that there are inadequate / inappropriate arrangements in place more detailed review may be required (you may wish to refer to the checklist below to identify areas where you feel there

are inappropriate arrangements at present). As the ICAEW states, “it is not the duty of the Committee to be responsible for arrangements or their operation” – to do so would be to remove the independent oversight role that the Audit Committee so essentially provides.

11. The ICAEW have also set out a number of “key elements” to effective whistleblowing arrangements, along with a set of questions the Committee should be considering to ensure it has assurance over the Council’s arrangements. Management have sought to answer these questions, and thus provide assurances to the Committee that arrangements are effective, see below for more information.

**Key Questions for the Audit Committee to consider on effective whistleblowing arrangements**

<b>Question</b>	<b>Management Response</b>
<i>Does the board and senior management set the right tone through its policy statements, communications and general actions?</i>	The Whistleblowing Policy encourages people to raise concerns without fear of reprisal. Through providing training at the induction stage, and ongoing training, the Council aims to make it clear to employees that it welcomes and supports concerns being raised.
<i>Have particularly serious allegations been brought to the attention of the entire Council?</i>	No serious allegations have been raised, and thus these have not been raised to the Council.
<i>Is there a mechanism to identify changes in legal and regulatory requirements?</i>	The Council has professionally qualified legal staff, and a number of staff receive key public sector documents that would highlight changes in legislation. Further, the Council would be made aware through its subscription to Public Concern at Work.
<i>Do there appear to be sensible written policies and procedures that are appropriate to the Council?</i>	The Whistleblowing Policy has been prepared with due regard to the legislative framework, British Standards Institute Guidance, the Public Concern at Work model policy, and also benchmarked against good practice identified at other Councils.
<i>Is there evidence that these policies have been communicated to new and existing employees, consultants and temporary staff?</i>	The Policy is published on the website and the intranet. Staff are made aware at induction, and ongoing training is provided.
<i>Is there evidence that these policies have been communicated to staff of all levels?</i>	See above.
<i>Do the arrangements include the provision of timely and constructive feedback?</i>	The Policy includes a requirement to provide feedback to whistleblowers on a timely and ongoing basis throughout the whistleblowing process.
<i>Are staff aware of the availability of confidential advice either through a confidential internal adviser or an outside body such as Public Concern at Work?</i>	The Policy includes contact details for Public Concern at Work. Staff are also provided with these details in training, and in the past staff have been provided with whistleblowing

	guidance cards which include sources of assistance and support.
<i>Have wrongdoers been dealt with in an appropriate manner, in accordance with employment law and contracts of employment?</i>	There have not been any whistleblowing concerns that have resulted in the wrongdoer requiring treatment. One fraud issue, recently identified outside of the whistleblowing framework, and proven after investigatory work, resulted in a staff member being dismissed.
<i>Is there evidence that the Council regularly considers whistleblowing procedures as part of its review of the system of internal control?</i>	The Whistleblowing arrangements were last scrutinised in 2008, and are being scrutinised again at present. The arrangements are viewed as sufficient, and therefore have not been raised as an issue within the Annual Governance Statement.
<i>Are there issues or incidents which have otherwise come to attention which the Council would have expected to have been raised earlier under the company's whistleblowing procedures?</i>	We would not have expected the other fraud issue raised to have ordinarily been identified through the whistleblowing process.
<i>Where appropriate, has the internal audit function performed any work that provides additional assurance on the effectiveness of the whistleblowing procedures?</i>	The Audit Management Team have received additional training in whistleblowing procedures. However, reviewing the effectiveness of these procedures is inherently limited by the fact that the Council has not had whistleblowing concerns raised; Internal Audit have thus reviewed the procedures now being drafted and are satisfied these are sufficiently robust.
<i>Are there adequate procedures to track the actions taken in relation to concerns made and to ensure appropriate follow-up action has been taken to investigate and, if necessary, resolve problems indicated by whistleblowing?</i>	The procedures now developed for whistleblowing should ensure that outcomes are appropriately followed-up and resolved.
<i>Are there adequate procedures for retaining evidence in relation to each concern?</i>	The Whistleblowing policy identifies the requirements for retaining such documentation.

<i>Have confidentiality issues been handled effectively?</i>	This is a core consideration within the Whistleblowing policy.
<i>Is there evidence of timely and constructive feedback?</i>	There is an expectation this will be given as part of the Whistleblowing Policy.
<i>Have any events come to the committee's or Management's attention that might indicate that a staff member has not been fairly treated as a result of their raising concerns?</i>	Management are not aware of any such concerns being raised.
<i>Is a review of staff awareness of the procedures needed?</i>	Staff have recently been provided with training in arrangements. Consideration could be given to this (e.g. through surveying staff) however it would be of greater use to undertake this when training has not recently been provided.

**BRECKLAND COUNCIL**

**WHISTLEBLOWING POLICY**

**Contents**

**INTRODUCTION TO THE POLICY**

1. What is Whistleblowing?
2. What is the purpose of the Policy?

**AIMS AND SCOPE OF THE POLICY**

3. What types of concerns are covered by the policy?
4. What is not covered by the Policy?

**SAFEGUARDS**

5. Protecting the Whistleblower
6. Anonymous Allegations
7. Assurances to Third Parties
8. Untrue Allegations

**HOW TO RAISE A CONCERN**

9. Guidance for Members of the Public, Contractors, Councillors and Partners
10. Guidance for Employees
11. Sources of Support for the Whistleblower
12. Raising issues with an External Party

**RESPONSIBILITY FOR WHISTLEBLOWING**

13. Responsible Officer for Whistleblowing
14. Responsibility for the Whistleblowing Policy

Appendix 1 – Contacts for Whistleblowing

Appendix 2 – Guidance for Employees

Appendix 3 – Guidance for Managers

## The Whistleblowing Policy

**THIS POLICY SHOULD BE READ IN CONJUNCTION WITH THE COUNCIL'S DISCIPLINARY POLICY AND PROCEDURES, STAFF AND MEMBER CODES OF CONDUCT.**

### INTRODUCTION TO THE POLICY

#### 1. What is Whistleblowing?

1.1 Whistleblowing is the raising of a significant concern. These concerns may cover issues of fraud, misconduct, or illegality, and this policy is designed to ensure that people know how to raise a genuine concern, and can do so in the knowledge that they will not face reprisal for their action.

1.2 Public Concern at Work (a charity which provides independent advice and information on whistleblowing) draws the following distinction between whistleblowing and pursuing a complaint:

*“When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.”*

#### 2. What is the purpose of the Whistleblowing Policy

2.1 Employees, councillors and others who deal with the Council may be the first to spot things that may be wrong or inappropriate within the Council. However, they might not say anything because they think this would be disloyal, or they might be concerned that their suspicions are unjustified or might turn out to be so after enquiry. They may also be worried that they or someone else might be victimised, or are unclear with whom to raise their concern.

2.2 Members of the public may also have concerns, but be unsure how and when to express them.

2.3 Breckland Council has produced this Whistleblowing Policy to help:

- councillors
- employees (including temporary and agency staff)
- others with whom the Council has dealings (e.g. contractors, partners, suppliers and voluntary organisations), and
- members of the public

to understand how and when to contact the Council with their concerns.

- 2.4 The Council is committed to maintaining an open culture with the highest standards of honesty and accountability. It takes all inappropriate behaviour very seriously and is committed to investigating any genuine concerns raised.
- 2.5 This policy aims to ensure that any concerns can be raised with confidence and without any worry on the part of the whistleblower about being victimised, discriminated against or disadvantaged in any way as a result.

## **AIMS AND SCOPE OF THE POLICY**

### **3. What types of concern are covered by the policy?**

- 3.1 This policy is intended to deal with serious or sensitive concerns about inappropriate behaviour. The Public Interest Disclosure Act 1998 outlines that a “protected” disclosure of a concern is one which demonstrates one or more of the following:
- A criminal offence has been committed, or is likely to be committed
  - Disclosures related to a miscarriage of justice
  - A failure to comply with a legal obligation
  - The endangering of an individual’s health and safety
  - Unnecessary damage to the environment (for example, by pollution)
  - Deliberate concealment of information relating to any of the above.
- 3.2 Beyond the legal context above, the Council would encourage employees, members of the public, and any other interested parties to raise any significant concerns that they may have, as soon as they are reasonably aware of them. These concerns could be about any aspects of the Council’s activities, e.g. with reference to Council employees, Members, or suppliers acting on behalf of the Council, and relate to issues that are either occurring now or likely to happen in the future.

### **4. What is not covered by the Policy?**

- 4.1 The Council has a number of policies and procedures to address other matters, for example:
- Employees’ complaints about their terms and conditions of employment. These matters are dealt with through the Grievance Procedure.
  - Instances of bullying and harassment of Council’s employees are dealt with through the Harassment and Bullying Prevention Policy.
  - Complaints from members of the public about the Council’s services. These are dealt with through the Council’s Complaints Procedure.
  - Concerns with reference to members should be referred to the Monitoring Officer and / or the Standards Committee

## **SAFEGUARDS**

### **5. Protecting the Whistleblower**

- 5.1 In accordance with the Public Interest Disclosure Act 1998, Breckland Council undertakes to protect, as best it can, an employee who blows the whistle from personal claims, victimisation, harassment or bullying as a result of his or her disclosure. This assurance is not extended to someone who maliciously raises a matter they know is untrue; such instances may be subject to the Council's disciplinary procedures.
- 5.2 Any employee or councillor taking any reprisal or similar action against a whistleblower because he or she has made a protected disclosure under this policy will be subject to disciplinary action by the Council.
- 5.3 The Council will, at the request of the whistleblower, keep the nature of concerns confidential. It will not reveal names or positions without permission, unless it has to by law, or an enquiry results in a criminal investigation in which the whistleblower might be required as a witness. Whistleblowers should be aware, however, that the fact that enquiries are being made might, of itself, result in their identity becoming known. Where possible, the Council will make you aware if your identify is likely to be compromised through investigation.
- 5.4 All these matters will be explained at the time a concern is raised so the whistleblower can decide whether or not to proceed. The Council will also keep the whistleblower informed if the situation significantly changes.

### **6. Anonymous Allegations**

- 6.1 The Council encourages whistleblowers to give their name when making an allegation. It will do all it can to protect the whistleblower. Concerns raised anonymously tend to be far less effective and if, for example, the Council does not have enough information, it may not be able to investigate the matter at all.
- 6.2 Also, from a practical point of view, it is impossible to provide protection to a person whose identity is unknown and more difficult to judge whether the concern is made in good faith or maliciously.
- 6.3 If whistleblowers feel that they cannot give their name, the Council will make a judgement on whether or not to consider the matter depending upon such things as:
  - the seriousness of the issue
  - whether the concern is believable; and
  - whether it can carry out a sufficient investigation based on the information provided

### **7. Assurances to third parties**

- 7.1 The assurances provided to employees raising concerns set out in section 5 above cannot be given in the same way to third parties. For example, the Council cannot guarantee protection to employees of third party (contractor) organisations. However,

we expect that all contractors are aware of the Council's whistleblowing procedures, and act in accordance with these.

- 7.2 Further, with regard to members of the Public, whilst they are not afforded statutory protection in the same way as employees, the Council is committed to treating all citizens fairly. Raising a concern under this policy will not affect the rights of any council citizens as set out within the Council's Constitution.

## **8. Untrue Allegations**

- 8.1 If a whistleblower makes an allegation which they believe is true, but it is not confirmed by an investigation, the Council will not take any action against them.
- 8.2 However, if a whistleblower makes a deliberately false or malicious allegation which they know is untrue, the Council will take appropriate disciplinary or legal action against them. Allegations of this nature are not protected by the Public Interest Disclosure Act 1998.

## **HOW TO RAISE A CONCERN**

### **9. Guidance for Members of the Public, Contractors, Councillors and Partners**

- 9.1 Members of the Public, Contractors and Councillors and those involved with partner organisations who suspect a Council Employee, another Councillor, Organisational Partners or other Contractors (in their dealings with the Council) of impropriety or illegality should contact one of the following:
- The Chief Executive
  - The Deputy Chief Executive (who acts as the Monitoring Officer)
  - Any other Council Director
  - Head of Internal Audit
  - If your concern relates to one of the above officers, you should contact the Audit Commission, as the Council's External Auditor.

All contact details are included within **Appendix 1** of this policy.

### **10. Guidance for Employees**

- 10.1 Whistleblowers should not attempt to investigate any concern themselves, but raise their concern using one of the avenues shown below.
- 10.2 A Council employee should first raise a concern with their manager or Head of Service. Guidance to employees on how to proceed is contained in the document "**Guidance for employees - How to react to concerns of inappropriate behaviour**" – see **Appendix 2**.
- 10.3 Guidance to managers on how to deal with a concern is contained in the document "**Guidance for Managers – How to react to concerns of inappropriate behaviour**" – see **Appendix 3**.

- 10.4 If the employee feels that it is inappropriate to raise a concern with their manager given the person involved and/or the seriousness or sensitivity of the matter, contact should be made with one of the following officers
- The Chief Executive
  - Deputy Chief Executive
  - Officers in the Council's Management Team
  - Assistant Director, Finance
  - HR Manager
  - Legal Manager
  - Head of Internal Audit
- 10.5 If your concern relates to any of the Officers above, this should be referred to the Chief Executive. If your concern relates to the Chief Executive, then this matter can be raised with the Leader of the Council (or the Deputy Leader of the Council if the Leader is unavailable) or the Audit Commission, as the Council's External Auditors.
- 10.6 Whistleblowers are encouraged to raise concerns promptly and where possible in writing, giving as much information as possible, such as relevant background, names, dates, places and the reason for their concern. However, concerns can be raised by telephone or by meeting the appropriate officer. The earlier a concern is raised, the easier it will be to take effective action.
- 10.7 Although it will not be necessary to prove beyond doubt that an allegation is true, a whistleblower will be expected to demonstrate that there are reasonable grounds for voicing their concern.
- 10.8 Any whistleblower will be asked to declare any personal interest they may have in the concern being raised.
- 10.9 The Council has developed procedures as to how whistleblowing concerns should be reviewed and investigated. It is recommended that anyone who raises a concern refers to these to identify the next course of action that will be taken in response to the issue raised.
- 10.10 In matters concerning the health, safety and welfare of those on our premises (whether members of staff, contractors or visitors) anyone, including an elected safety representative, who becomes aware of a hazard (actual or potential) or dangerous occurrence should immediately notify the Health and Safety Advisor, before contacting any outside body, to ensure that immediate action can be taken if necessary to deal with the hazard. Contact can be made by telephone, email or the sending of a written report as appropriate to the situation.

## **11. Sources of support for the whistleblower**

- 11.1 People who do not work for the Council might want to discuss their concern with a friend or colleague first. They may then find it easier to raise a concern if others share the same experiences or concerns.

- 11.2 For employees who are members of a union, trade union representatives can give general support and advice, or act on their behalf if this would help. This could be useful, particularly if the employee wishes to remain anonymous, to the extent that is possible.
- 11.3 The Council will encourage the trade unions to support any member of staff who raises a concern with them.
- 11.4 The Council further welcomes any member of staff to consult with Public Concern at Work if they are not sure about whistleblowing. Public Concern at Work are an independent charity who provide confidential support and advice to whistleblowers through a telephone helpline and the internet. Further details for Public Concern at Work are included in **Appendix 1**.

## **12. Raising issues with an external party**

- 12.1 Concerns are most readily addressed where they are raised internally in the first instance. However, there may be situations where you feel it is inappropriate to raise the concern internally, or unable to do so. Alternatively, you may have already raised a concern and are dissatisfied with the outcome. In these situations, there are a number of other parties to whom you may turn:
- The Audit Commission's dedicated telephone hotline for receiving disclosures
  - Relevant Regulatory Organisations (e.g. the Environment Agency, Health and Safety Executive or Local Government Ombudsman)
  - The Police (where a criminal matter is involved)
  - Public Concern at Work
- Contact details for all parties are included within **Appendix 1**.
- 12.2 Before consulting an external party, the Council recommends that the whistleblower seeks independent legal advice (disclosure to a legal advisor is protected by law). The law most readily protects disclosures that are seen to be "reasonable", i.e. disclosures that are made within the Council, or to an appropriate regulator at an early stage. If the matter is taken outside of the Council, the whistleblower should ensure they do not disclose information about a third party that may be covered by a duty of confidentiality (e.g. commercially sensitive information or personal, private data).

## **RESPONSIBILITY FOR WHISTLEBLOWING**

### **13. Responsible Officer for Whistleblowing**

- 14.1 The Council's Deputy Chief Executive (as Monitoring Officer) is the Senior Officer in the Council who can take an independent view of any concerns raised.
- 14.2 All concerns raised will be handled in line with the Whistleblowing Procedural Guidance.

#### **14. Responsibility for the Whistleblowing Policy**

- 14.1 All concerns raised and the outcomes will be reported to the Accounts and Audit Committee and the Standards Committee annually in a form that does not endanger confidentiality.
- 14.2 This policy is to be reviewed at least every 3 years (or more frequently if required by changes to statutory legislation) and approved by the Audit Committee. Subsequent to any approval, the following parties shall be consulted:
- Senior Council Officers responsible for receiving whistleblowing concerns
  - Joint Consultative Committee
  - General Purposes Committee
  - Standards Committee
  - Audit Committee
- 14.3 On an annual basis, **Appendix 1** of the policy, which provides details of the key parties responsible for whistleblowing, shall be reviewed by the Deputy Chief Executive and Head of Internal Audit to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the policy.

**Contacts for Whistleblowing****Raising concerns internally**

<u>Chief Executive</u>	Terry Huggins <a href="mailto:chief.executive@breckland.gov.uk">chief.executive@breckland.gov.uk</a>
<u>Deputy Chief Executive</u>	TBC
<u>Business Development Manager</u>	TBC
<u>Commissioning Director</u>	TBC
<u>Monitoring Officer</u>	TBC
<u>Head of Internal Audit</u>	Sandra King <a href="mailto:scking@s-norfolk.gov.uk">scking@s-norfolk.gov.uk</a> 01508 533863
<u>Assistant Director, Finance</u>	TBC
<u>Legal Manager</u>	TBC
<u>Human Resources Manager</u>	TBC

## **Raising Concerns Externally**

<p><b><u>Public Concern at Work</u></b> - <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a></p> <p>For support with how to raise concerns, and action to take</p>	<p>Public Concern at Work 3<sup>rd</sup> Floor Bank Chambers 6-10 Borough High Street London SE1 9QQ</p> <p><u>020 7404 6609</u> <a href="mailto:helpline@pcaw.co.uk">helpline@pcaw.co.uk</a></p>
<p><b><u>Audit Commission Complaints Investigation Officer</u></b> - <a href="http://www.audit-commission.gov.uk">www.audit-commission.gov.uk</a></p> <p>For issues relating to financial probity and governance</p>	<p>1<sup>st</sup> Floor, Millbank Tower Millbank London SW1P 4HQ</p> <p><u>0845 0522646</u></p>
<p><b><u>The Local Government Ombudsman</u></b></p> <p>The Commission for Local Administration in England</p> <p>For Complaints against Councils – will cover all complaints</p>	<p>The Oaks No 2. Westwood Way Westwood Business Park Coventry CV4 8JB</p> <p><u>0845 6021983</u></p>
<p><b><u>Norfolk Constabulary</u></b></p> <p>For all breaches of the law (except as noted below)</p>	<p>Operations and Communications Centre Jubilee House Falconers Chase Wymondham Norfolk NR18 OWW</p> <p><u>0845 456 4567</u></p>

<p><b><u>Serious Fraud Office – <a href="http://www.sfo.gov.uk">www.sfo.gov.uk</a></u></b></p> <p>Fraud and Corruption issues</p>	<p>Elm House 10-16 Elm Street London WC1X 0BJ</p> <p><u>0207 239 7388</u></p>
<p><b><u>Serious Organised Crime Agency – <a href="http://www.soca.gov.uk">www.soca.gov.uk</a></u></b></p> <p>For Money Laundering Issues</p>	<p>PO Box 8000 London SE11 5EN</p> <p><u>0370 496 7622</u></p>
<p><b><u>The Health and Safety Executive – <a href="http://www.hse.gov.uk">www.hse.gov.uk</a></u></b></p>	<p>Lakeside 500 Old Chapel Way Broadland Business Park Norwich Norfolk NR7 0WQ</p> <p><u>0845 345 0055</u></p>
<p><b><u>The Environment Agency – <a href="http://www.environment-agency.gov.uk">www.environment-agency.gov.uk</a></u></b></p> <p>For environmental crimes</p>	<p>National Customer Contact Centre PO Box 544 Rotherham S60 1BY</p> <p><u>0800 80 70 60</u></p>

## GUIDANCE FOR EMPLOYEES

## HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action you take when you suspect inappropriate behaviour may have happened, or be about to happen, can be crucial. Inappropriate behaviour is described in the Council's Whistleblowing Policy as:

- Any criminal offence, particularly fraud or corruption
- Unauthorised use of Council money
- A failure to comply with a legal obligation
- The endangering of an individual's health and safety
- Unnecessary damage to the environment (for example, by pollution)
- A person abusing their position for any unauthorised use or for personal gain
- A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Counter Fraud Strategy, the Employees' or Members' Code of Conduct)
- A person failing to meet appropriate professional standards
- Deliberate concealment of information relating to any of the above.

Following these simple rules should help the Council in carrying out enquiries into any concerns you have.

**DO**

- ✓ **Make an immediate note of your concerns.**

Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

- ✓ **Convey your suspicions to someone with the appropriate authority and experience in accordance with the Council's Whistleblowing Policy.**
- ✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

**DON'T**

- ✗ **Do nothing.**
- ✗ **Be afraid of raising your concerns.**

You will not suffer any recrimination from the Council as a result of voicing a reasonably held suspicion. The Council will treat the matter sensitively and

confidentially, and will take reasonable steps to protect anyone who raises a well intentioned concern.

**✘ Approach or accuse any individuals directly.**

**✘ Try to investigate the matter yourself.**

There are special rules surrounding the gathering of evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may weaken or destroy any future prosecution should that be thought appropriate.

**✘ Convey your suspicions to anyone other than those indicated in the Council's Whistleblowing Policy.**

The Public Interest Disclosure Act 1998 - will protect you from any reprisals as long as you meet the rules set out in the Act. The rules are:

- **You must disclose the information in good faith**
- **You must reasonably believe it to be substantially true**
- **You must not seek any personal gain**

## GUIDANCE FOR MANAGERS

### HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

**The action you take when you identify, or are made aware of, suspected inappropriate behaviour can be crucial in determining the success of any subsequent enquiries. Inappropriate behaviour is described in the Council's Whistleblowing Policy as:**

- Any criminal offence, particularly fraud or corruption
- Unauthorised use of Council money
- A failure to comply with a legal obligation
- The endangering of an individual's health and safety
- Unnecessary damage to the environment (for example, by pollution)
- A person abusing their position for any unauthorised use or for personal gain
- A person deliberately not keeping to a Council policy or an official code of practice (e.g. the Council's Counter Fraud Strategy, the Employees' or Members' Code of Conduct)
- A person failing to meet appropriate professional standards
- Deliberate concealment of information relating to any of the above.

**Following these simple rules will help to ensure that matters are properly handled.**

**As a manager you should familiarise yourself with both the Council's Strategy to help fight Fraud and Corruption and its Whistleblowing Policy**

#### **DO**

- ✓ **Be responsive to employees' concerns.**

As part of the Council's anti-fraud and corruption culture, you should encourage employees to voice any reasonably held suspicion. As a manager you should treat all employees' concerns seriously and sensitively.

- ✓ **Note details.**

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, request access to these

Note any documentary evidence which may exist to support the allegations made, but do not interfere with this evidence in any way.

- ✓ **Evaluate the allegation objectively**

Before you take the matter further determine whether any suspicions appear to be justified.

Be objective when evaluating the issue. Consider the facts as they appear based on information you have to hand.

**If in doubt, report your suspicions anyway.**

If you consider that no further action is necessary, you should still record your decision and also inform the Monitoring Officer of the original notification details.

✓ **Advise the appropriate person**

If you feel that a suspicion is justified advise an appropriate officer in accordance with the Council's Whistleblowing Policy

✓ **Deal with the matter promptly if you feel your concerns are warranted.**

Delay may cause the Council to suffer further financial loss or make further enquiry more difficult.

**DON'T**

✗ **Ridicule suspicions raised by employees**

The Council cannot operate an effective anti-fraud and corruption culture or Whistleblowing Policy if employees are reluctant to pass on their concerns to management due to fear of ridicule or recrimination.

You need to ensure that all employee concerns are given a fair hearing. You should reassure employees that they will not suffer recrimination by raising any reasonably held suspicion.

✗ **Approach or accuse any individuals directly**

✗ **Convey your suspicions to anyone other than those indicated in the Council's Whistleblowing Policy**

✗ **Try to investigate the matter yourself**

Investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence.

**Your primary responsibility is to report the issue and all associated facts to the appropriate officer, wherever possible.**

## Guidance to the Audit Committee on Whistleblowing

### Introduction

1. In 2004, the Institute of Chartered Accountants (ICAEW) produced a paper titled "Guidance to Audit Committees: Whistleblowing Arrangements". This paper is very much orientated towards Committees of commercial organisations and provides helpful background and guidance that public sector committees may equally find useful. We have therefore included the ICAEW paper as a background paper to this Committee report.
2. The CIPFA / SOLACE framework for governance in local government refers to the need for authorities to have suitable whistleblowing arrangements in place. "Arrangements" goes beyond having a policy; it entails the Council having suitable practices for the reporting of concerns and to investigate matters raised, as well as ensuring that those charged with Governance have a suitable awareness of the Council's provisions for whistleblowing.
3. The Combined Code of Corporate Governance (used to guide private sector governance arrangements) succinctly outlines what the Audit Committee should contribute to the whistleblowing process:

*"The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action"*

### Background to Whistleblowing

4. The legislative framework for Whistleblowing in England is the Public Interest Disclosure Act (1998). In effect, this is an extension of the Employment Rights Act. The purpose behind the act is to provide protection to those employees who raise concern, and ensures that they are not unfairly treated as a result of raising their concern.
5. This places a duty on the Council to ensure appropriate procedures are in place to allow people to raise concerns and appropriately handle these concerns. The Council therefore has to consider who should receive concerns raised, how it can maintain the confidentiality of a whistleblower, and how investigations can be effectively managed.
6. Whistleblowing can be a very traumatic process for all involved. In general, the raising of such concerns is only done by those who have a

genuine belief that there is untoward behaviour occurring – something that can be very difficult to do, particularly where it involves workplace colleagues or friends, or line management. There can also be the case where a malicious allegation has been raised, which can then place the accused under scrutiny and stress.

### **The Council's response**

7. The duty to protect whistleblowers extends to the whole Council, including Members who may receive concerns raised by staff or members of public and need to ensure they know how to proceed with these. Further, inappropriately reacting to whistleblowing concerns raised can lead to significant risks to the Council, for example:
  - Nothing is done about the concern – the Council could be exposed to fraud or inappropriate / untoward / corrupt behaviour etc
  - The whistleblower raises their concern with an outside party (e.g. Inspectorate or media) – this could lead to damage to the Council's reputation, fines being awarded etc
  - The whistleblower seeks damages as a result of unfair treatment / failure to investigate – the Public Interest Disclosure Act places no restriction on the level of damages that can be awarded to employees unfairly treating employees who raise concerns. An employee at Redcar and Cleveland Council was recently awarded £442,466 as a result of being sacked for expressing a concern that an internal appointment had not been properly advertised. Walsall Council have also paid a sum to a former employee of nearly £600,000.
8. The ICAEW believes that whistleblowing is an important part of the control environment, and can only be effective where two cultural obstacles can be overcome – where employees see the policy as a valuable contribution to the efficiency and success of the Council, as well as their own future; and secondly, where they believe their concerns will be fairly treated.
9. The Council has sought to overcome these obstacles in a number of ways. Staff are provided guidance in their induction on what to do if they have a concern; the Council has a long-established whistleblowing policy; ongoing training is provided to staff on corporate fraud and whistleblowing, and the Council is a subscriber to Public Concern at Work, who provide free and impartial advice to those who have concerns.

### **The Audit Committee's role**

10. Fundamentally, the Audit Committee should seek to gain assurance that proper arrangements are in place. The main function is high-level, however if you believe that there are inadequate / inappropriate arrangements in place more detailed review may be required (you may wish to refer to the checklist below to identify areas where you feel there

are inappropriate arrangements at present). As the ICAEW states, “it is not the duty of the Committee to be responsible for arrangements or their operation” – to do so would be to remove the independent oversight role that the Audit Committee so essentially provides.

11. The ICAEW have also set out a number of “key elements” to effective whistleblowing arrangements, along with a set of questions the Committee should be considering to ensure it has assurance over the Council’s arrangements. Management have sought to answer these questions, and thus provide assurances to the Committee that arrangements are effective, see below for more information.

**Key Questions for the Audit Committee to consider on effective whistleblowing arrangements**

<b>Question</b>	<b>Management Response</b>
<i>Does the board and senior management set the right tone through its policy statements, communications and general actions?</i>	The Whistleblowing Policy encourages people to raise concerns without fear of reprisal. Through providing training at the induction stage, and ongoing training, the Council aims to make it clear to employees that it welcomes and supports concerns being raised.
<i>Have particularly serious allegations been brought to the attention of the entire Council?</i>	No serious allegations have been raised, and thus these have not been raised to the Council.
<i>Is there a mechanism to identify changes in legal and regulatory requirements?</i>	The Council has professionally qualified legal staff, and a number of staff receive key public sector documents that would highlight changes in legislation. Further, the Council would be made aware through its subscription to Public Concern at Work.
<i>Do there appear to be sensible written policies and procedures that are appropriate to the Council?</i>	The Whistleblowing Policy has been prepared with due regard to the legislative framework, British Standards Institute Guidance, the Public Concern at Work model policy, and also benchmarked against good practice identified at other Councils.
<i>Is there evidence that these policies have been communicated to new and existing employees, consultants and temporary staff?</i>	The Policy is published on the website and the intranet. Staff are made aware at induction, and ongoing training is provided.
<i>Is there evidence that these policies have been communicated to staff of all levels?</i>	See above.
<i>Do the arrangements include the provision of timely and constructive feedback?</i>	The Policy includes a requirement to provide feedback to whistleblowers on a timely and ongoing basis throughout the whistleblowing process.
<i>Are staff aware of the availability of confidential advice either through a confidential internal adviser or an outside body such as Public Concern at Work?</i>	The Policy includes contact details for Public Concern at Work. Staff are also provided with these details in training, and in the past staff have been provided with whistleblowing

	guidance cards which include sources of assistance and support.
<i>Have wrongdoers been dealt with in an appropriate manner, in accordance with employment law and contracts of employment?</i>	There have not been any whistleblowing concerns that have resulted in the wrongdoer requiring treatment. One fraud issue, recently identified outside of the whistleblowing framework, and proven after investigatory work, resulted in a staff member being dismissed.
<i>Is there evidence that the Council regularly considers whistleblowing procedures as part of its review of the system of internal control?</i>	The Whistleblowing arrangements were last scrutinised in 2008, and are being scrutinised again at present. The arrangements are viewed as sufficient, and therefore have not been raised as an issue within the Annual Governance Statement.
<i>Are there issues or incidents which have otherwise come to attention which the Council would have expected to have been raised earlier under the company's whistleblowing procedures?</i>	We would not have expected the other fraud issue raised to have ordinarily been identified through the whistleblowing process.
<i>Where appropriate, has the internal audit function performed any work that provides additional assurance on the effectiveness of the whistleblowing procedures?</i>	The Audit Management Team have received additional training in whistleblowing procedures. However, reviewing the effectiveness of these procedures is inherently limited by the fact that the Council has not had whistleblowing concerns raised; Internal Audit have thus reviewed the procedures now being drafted and are satisfied these are sufficiently robust.
<i>Are there adequate procedures to track the actions taken in relation to concerns made and to ensure appropriate follow-up action has been taken to investigate and, if necessary, resolve problems indicated by whistleblowing?</i>	The procedures now developed for whistleblowing should ensure that outcomes are appropriately followed-up and resolved.
<i>Are there adequate procedures for retaining evidence in relation to each concern?</i>	The Whistleblowing policy identifies the requirements for retaining such documentation.

<i>Have confidentiality issues been handled effectively?</i>	This is a core consideration within the Whistleblowing policy.
<i>Is there evidence of timely and constructive feedback?</i>	There is an expectation this will be given as part of the Whistleblowing Policy.
<i>Have any events come to the committee's or Management's attention that might indicate that a staff member has not been fairly treated as a result of their raising concerns?</i>	Management are not aware of any such concerns being raised.
<i>Is a review of staff awareness of the procedures needed?</i>	Staff have recently been provided with training in arrangements. Consideration could be given to this (e.g. through surveying staff) however it would be of greater use to undertake this when training has not recently been provided.

**Scarning Parish Council**



**Clerk to the Council**  
**Mr N Hartley**  
Oakleigh House  
Shipdham Lane  
Scarning,  
NR19 2LB

01362 687492

Mrs S Allen,  
Standards Officer,  
Breckland Council,  
Elizabeth House,  
Walpole Loke,  
Dereham,  
NR19 1EE.

22 November 2010.

Dear Mrs Allen,

I am writing to let you know that Mr A Horwell has replaced Mrs H Hudson on the Parish Council. I have pleasure in enclosing his completed Interests Form.

Whilst writing, I would also like to apply for a Dispensation for Mr Horwell with regard to Scarning Fuel Allotment Charity, of which he becomes a trustee and in respect of the former Highway's Land at Daffy Green and Podmore Lane.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Nick Hartley".

**Nick Hartley**  
On behalf of Scarning Parish Council

**Scarning Parish Council**

**Clerk to the Council  
Mr N Hartley  
Oakleigh House  
Shipdham Lane  
Scarning,  
NR19 2LB**

**01362 687492**

**Mrs S Allen,  
Standards Officer,  
Breckland Council,  
Elizabeth House,  
Walpole Loke,  
Dereham,  
NR19 1EE.**



**12 January 2011.**

**Dear Mrs Allen,**

I am writing to let you know that Mr R Walton has been co opted on to the Parish Council. I have pleasure in enclosing his completed Interests Form.

Whilst writing, I would also like to apply for a Dispensation for Mr Walton with regard to Scarning Fuel Allotment Charity, of which he becomes a trustee and in respect of the former Highway Surveyor's Land at Daffy Green and Podmore Lane.

Yours sincerely,

A handwritten signature in black ink, appearing to be "Nick Hartley", written over a horizontal line.

**Nick Hartley  
On behalf of Scarning Parish Council**